

*Before the*  
**FEDERAL ELECTION COMMISSION**

RECEIVED  
FEDERAL ELECTION COMMISSION  
2012 NOV 20 AM 11:51  
OFFICE OF THE CLERK  
FEDERAL ELECTION COMMISSION

In the matter of:

Roraback for Congress; and Ms. Anna-  
Elysapeth McGuire, in Her Official Capacity as  
Treasurer of Roraback for Congress

MUR No. 6654

**RESPONSE OF RORABACK FOR CONGRESS AND MS. ANNA-ELYSAPETH  
MCGUIRE, IN HER OFFICIAL CAPACITY AS TREASURER OF RORABACK FOR  
CONGRESS, TO COMPLAINT OF MS. NANCY DINARDO**

The following response ("Response") is submitted on behalf of Roraback for Congress ("RFC") and Ms. Anna-Elysapeth McGuire, in her official capacity as Treasurer of Roraback for Congress (collectively, "Respondents" or the "Named Parties") with respect to the complaint (MUR No. 6654; the "Complaint") filed by Ms. Nancy DiNardo ("Complainant"). As discussed in further detail within this Response, the Complaint authored by Ms. DiNardo (the Chairwoman of the Connecticut Democratic Party) against the Named Parties has no basis in either law or fact. Rather, it amounts to nothing more than a conveniently-timed, politically-motivated attack, which was designed solely to generate negative media coverage of Republican Congressional candidate Andrew Roraback and drain the time and resources of the Named Parties. Based wholly on circumstantial evidence and unfounded speculation, the Complainant accuses Respondents of violating the Federal Election Campaign Act of 1971 (the "Act") and asks the Federal Election Commission ("FEC" or the "Commission") to investigate and pursue an enforcement action against the Named Parties. Given the baseless nature of the instant Complaint, the Commission should reject Complainant's request and move to dismiss the present matter under review against Respondents.

**I. Introduction**

Respondent RFC is the principal federal campaign committee of Mr. Andrew Roraback, an unsuccessful Republican candidate for election to the U.S. House of Representatives in Connecticut's Fifth Congressional District and a current member of the Connecticut State Senate. Complainant, unsurprisingly, is the Chairwoman of the Connecticut Democratic Party and a chief supporter of Mr. Roraback's opponent in the general election, Congresswoman-elect Elizabeth Eszy. In the midst of a extremely close congressional campaign and less than two months before election day, Complainant filed the present Complaint with the Commission alleging that the Named Parties violated the "joint fundraising" provisions of the Act and its associated regulations. From the timing of Ms. DiNardo's submission, the degree to which it was actively promoted in the news media by Complainant and other state Democrat officials, and the utter lack of substantiation for the Complaint's allegations, one can only conclude that this action was filed as a political ploy designed to embarrass Mr. Roraback. This is not a Complaint intended to redress actual violations of the Act.

Even a cursory review of Complainant's allegations compels one to reach the conclusion that the Complaint is without merit. Its contents assert that the Named Parties, in conjunction with Obsitnik for Congress, violated the provisions of 11 C.F.R. § 102.17 by distributing a joint invitation for a "joint fundraising event" held at a private home in Darien, Connecticut on September 18, 2012. *See* Complaint, p. 1. Specifically, the Complaint contends that Respondents and Obsitnik for Congress ("OFC") "violated the Commission's donor notice requirements found in 11 C.F.R. § 102.17(c)(2)" and likewise "attempted to hide the joint nature of the event by sending out subsequent invitations without referencing the other joint participant." *See* Complaint, p. 1-2. These claims, however, are based entirely on unfounded

assumptions, incomplete circumstantial evidence, and second-hand reports from news reporters supportive of Mr. Roraback's political opponents. As such, there is no compelling justification for Complainant's assertions or reasonable foundation for asking the Commission to pursue an investigation against Respondents.

As is demonstrated fully below, the claims advanced by Complainant against the Named Parties are fundamentally false. At no time since the establishment of RFC, has the committee endeavored (on its own or in conjunction with OFC) to host a joint fundraising event in violation of the provisions of 11 C.F.R. § 102.17, nor has it (on its own or in conjunction with OFC) taken any actions that could reasonably constitute an attempt to hide or obscure potential violations of the Act or its associated regulations. The fundraising event at issue in the present Complaint was wholly within the bounds of federal campaign finance law and any errors made in drafting or printing invitations for the relevant event were wholly inadvertent and committed by third parties. As such, any assertions that Respondents failed to form a proper joint fundraising committee, failed to disclose joint fundraising activities in an appropriate fashion, or sought to cover up inappropriate conduct in this area is altogether inaccurate. Consequently, there is no foundation upon which to initiate an investigation of the Named Parties and their activities, nor is there any reason to conclude that the Act, its implementing regulations, or any other laws have been violated.

## **II. Argument**

### **A. Roraback for Congress Did NOT Violate the Joint Fundraising Provisions of 11 C.F.R. § 102.17 in Conjunction with Its Participation in the September 18, 2012 Private Fundraising Event in Darien, Connecticut.**

As set forth above, the present Complaint insinuates that Respondents violated the provisions of 11 C.F.R. § 102.17 by planning and hosting a "joint fundraiser" with OFC without

14044350897

14044350898

either establishing a joint fundraising committee or properly noticing prospective donors about the nature of the "joint event" taking place. Despite Complainant's baseless allegations and assertions, the private fundraising event at issue in this matter was not a "joint fundraising event" that would require Respondents (on their own or in conjunction with OFC) to comply with the litany of requirements set forth in 11 C.F.R. § 102.17, including the joint fundraising representative designation and allocation formula notification obligations. Rather, to the best of Respondents' knowledge, the September 18, 2012 event at issue was purely a private gathering hosted by former Connecticut State Senator Dan DeBicella (and other high-ranking state Republicans) honoring Mr. Roraback, Mr. Obsitnik, Republican members of the Connecticut General Assembly, officials from the Connecticut Republican Party, and a number of other individuals. While the event did permit an opportunity for candidates in attendance to fundraise for their respective campaigns, there was no coordinated effort on the part of Respondents to organize a "joint fundraiser" for RFC and OFC. Any indication to the contrary is solely a result of what appears to be an inadvertent mistake made by fundraising consultancy Tusk Productions, LLC ("Tusk") – an entity not retained by the Roraback campaign – which is discussed in greater detail below:

As characterized in the Act and its associated regulations, joint fundraising is election-related fundraising planned, funded, coordinated and orchestrated jointly by a political committee and one or more other political committees or unregistered organizations. In instances truly involving "joint fundraising", 11 C.F.R. § 102.17 mandates a litany of actions be taken by the parties conducting the money-raising. In the present matter, however, none of these requirements appear to be applicable. At no point were contributions ever "jointly fundraised". Each campaign solicited and accepted its own funds. Despite the allegations set forth in the

14044350899

present Complaint, Respondents made no affirmative effort to engage in any form of joint fundraising with OFC or any other federally-registered political committee in connection with the September 18<sup>th</sup> event. As such, there is no reasonable justification for Complainant's contention that Respondents violated the provisions of the Act.

As is common for most congressional campaigns, RFC outsourced much of its event planning and fundraising activities to an outside contractor – in this case, Tusk. The September 18<sup>th</sup> cocktail reception appears to be one such event. As such, RFC entrusted all activities associated with the planning, development, and marketing of the Darien event to Tusk and its personnel, who coordinated with campaign staff only to the extent necessary to ensure Mr. Roraback's attendance and overall logistical ease. Likewise, upon Respondent's information and belief, RFC personnel played no role whatsoever in coordinating the event with OFC campaign staff or in developing, producing, printing or distributing any promotional materials that mistakenly characterized the reception as a RFC-OFC joint fundraising event. Given this fact, there is no compelling reason for the Commission to pursue an investigation against Respondents for potential violations of 11 C.F.R. § 102.17. After all, even if it is later determined that contraventions of the Act's joint fundraising provisions took place, such infringements would have taken place without the knowledge or consent of Respondents and would have been the result of what are most likely inadvertent mistakes committed by the campaign's third-party vendor.

The likely inadvertent mistake at issue (and alluded to previously within this section) is the event invitation flyer referenced by Complainant as Complaint Exhibit A. According to Ms. DiNardo, that two-page flyer contains content that is indicative of a joint fundraising event put on by RFC and OFC that is required to comply with the requirements of 11 C.F.R. § 102.17. As

14044350900

indicated above, however, Respondents played no role in the development, production, printing or distribution of the flyer at issue. Given this fact, it was inappropriate for Tusk to produce any materials advertising the September 18<sup>th</sup> event that indicated to the public that RFC and OFC were engaging in a joint fundraising operation. While it is not at all certain that Complaint Exhibit A causes confusion in that regard, it is certainly clear that Respondents did not consent to the creation of any such flyers or to the inclusion of any imagery or wording on such materials that would indicate that the cocktail reception at issue was a joint fundraising event. More importantly, the event in question was not conducted as a joint fundraiser as defined by the Commission. Bearing this in mind, Respondents can only speculate as to the reasons for Tusk's creation of Complaint Exhibit A flyer. Given that there appear to be two different advertising formats utilized for the same cocktail reception (*see* Complaint Exhibits A & B), it would be reasonable to assume that Tusk made an error in reflecting the Darien reception as a joint event for both RFC and OFC. Respondents, however, have no knowledge of the rationale behind Tusk's development and circulation of Complaint Exhibit A, and as such, cannot speak for it or its personnel.

Regardless of Tusk's conduct in this matter or Respondents' lack of knowledge in regard to such actions, the fact remains that Complainant fails to provide the Commission with any meaningful justification for pursuing an investigation against the Named Parties in this matter. Rather than provide the FEC with compelling evidence of a coordinated effort on the part of RFC and OFC to plan, host and promote a joint fundraising event, Complainant rests her entire Complaint on the aforementioned flyer produced by a third-party vendor and an incompatible comparison to MUR 5780, involving a joint fundraising activities by the Rick Santorum's 2006 U.S. Senate campaign. Neither piece of supportive "evidence", however, provides consequential

justification for the claims presented. As characterized above, the flyer at issue is at best anecdotal evidence of an inadvertent mistake by Tusk. The reference to MUR 5780, however, is nothing more than an attempt to cast the activities at issue in this matter in a more negative light.

In comparing the present case to MUR 5780, Complainant failed to recognize the distinct differences between the facts of both matters. In the instant dispute, two separate candidates for congressional office attended a single reception and engaged in fundraising activities independent of one another without any evidence of coordination. At no point was the reception at issue intended to be a "joint fundraiser" coordinated, funded and planned by RFC and OFC. By comparison, in MUR 5780 Santorum's Senate campaign and the Republican Federal Committee of Pennsylvania ("FCP") held a joint fundraising event at a private residence in Pennsylvania, where Santorum's campaign and the FCP coordinated with each other regarding the logistics of the event, selection and payment of the vendors used, distribution of the fundraising proceeds, choice of the guest speaker, and a number of other key matters. See Exhibit 1, p. 3 attached hereto. In light of actively coordinating on these specific aspects of the joint fundraiser, Santorum's campaign and FCP consented to being non-compliant with the obligations of 11 C.F.R. § 102.17 as well as other requirements of the Act concerning public political communications and donor disclaimers. Given these facts, the distinctions between the two cases are marked. MUR 5780 involved an active and coordinated effort between a PAC and a candidate committee to plan, fund, promote and split revenue from a joint fundraiser involving President George Bush. By contrast, however, the present case concerns a private cocktail reception planned and promoted by a third-party vendor without the direct knowledge of Respondents and without the joint collection and sharing of donations from event attendees. As such, it is inappropriate for Complainant to highlight the result in MUR 5780 as indicative of

14044350902

how the Commission should treat Respondents in the present matter. The simple truth is that the cases are decidedly unique and incomparable for the sake of legal and factual analysis.

Taking into consideration the allegations raised by the Complainant in light of the facts presented above, there is no compelling justification for the Commission to pursue any further investigation of the present matter with regard to Respondents. As described at length above, Respondents had no intention to enter into a joint fundraising operation with OFC with regard to the Darien reception, and likewise had no knowledge of any activities undertaken by Tusk insinuating that such an operation might be in existence. The contents of the present Complaint do nothing to refute those claims and provide nothing more than weak circumstantial support for Ms. DiNardo's allegations. In light of this fact, the Commission should take no further action with regard to the instant claim raised against the Named Parties and seek a prompt dismissal of the Complaint as a whole.

**B. Roraback for Congress Did NOT Attempt to Conceal Potential Violations of the Joint Fundraising Provisions of 11 C.F.R. § 102.17 By Sending Out Post-Hoc Invitations to the September 18, 2012 Private Fundraising Event in Darien, Connecticut.**

In addition to the baseless accusations addressed above, the present Complaint also accuses Respondents of violating federal campaign finance law by "attempt[ing] to hide the joint nature of the [fundraising] event by sending out subsequent invitations without referencing the other joint participant." This allegation is not only false and wholly unsubstantiated by Complainant, but it is also a helpful illustration of the lengths to which Ms. DiNardo and the Democratic Party of Connecticut were willing to go to create a negative news story regarding RFC and Mr. Roraback. The claims Complainant articulates are conspiratorial at best, and as such, merit no further consideration or investigation by the Commission.



Based upon the information set forth in the Complaint, the sole "evidentiary" support Ms. DiNardo can muster to substantiate her wild claims of a post-hoc "cover-up" by Respondents and OFC are a copy of an OFC-only invitation to the September 18 fundraiser and a veiled reference to a reporter's claim that RFC and OFC were attempting to hide the true nature of the "joint fundraising" event. See Complaint Exhibit B and Complaint, p. 2. Unfortunately for Ms. DiNardo, however, neither piece of "evidence" proves any aspect of her baseless allegations against Respondents. The OFC-only invitation contains no content or dating that would indicate in any way that it was prepared and/or circulated subsequent to Tuesday, September 18<sup>th</sup>. As such, it is difficult for Respondents to understand how the invitation is at all supportive of Complainant's accusations. In reality, it appears to be nothing more than non-supportive evidence clothed in a story of wild speculation. Regardless of this fact, however, the OFC-only invitation has absolutely no bearing on the claims raised against Respondents in this matter. RFC played no role whatsoever in and had no knowledge whatsoever of the development, printing and circulation of the OFC-only invitation, and as such, cannot speak to the timing or context of these activities. In light of this fact, RFC cannot possibly be held responsible for the actions of others taken in regard to the OFC-only invitation.

In much the same way that Complaint Exhibit B falls short of substantiating the wild "cover-up" claim put forth by Complainant, so too does her secondary piece of supporting "evidence". As briefly mentioned above, Ms. DiNardo seeks to corroborate the validity of her conspiracy allegation against Respondents by referencing an unspecified interaction between a news reporter, RFC and OFC in which the campaign committees purportedly attempted to conceal the true nature of the fundraising event. In referencing this "encounter" as support for her allegations, Complainant offers absolutely no details as the parties involved, the timing or

14044350904

location of the interactions, or the purported statements made. As such, it is difficult for Respondents to view this piece of "evidentiary support" as anything other than a fabricated rumor meant to give corroborative cover to an otherwise baseless accusation. Respondents have no knowledge whatsoever of any interactions between members of the media and RFC personnel in which campaign staff took any actions or made any statements suggesting an attempt to conceal a violation of campaign finance law. Similarly, outside of the context of this purported encounter with Ms. DiNardo's unidentified report, Respondents have no knowledge whatsoever of any actions taken by RFC personnel that could potentially be classified as an attempt to obscure any potential violations of the Act or its associated rules and regulations.

In light of the failure of Complainant to provide any legal or factual justification for her concealment allegation against Respondents, there is no compelling reason for the Commission to investigate this issue further. As such, the FEC should reject the instant claim raised against the Named Parties and seek a prompt dismissal of the Complaint as a whole. In addition, the Commission should issue a formal rebuke against Complainant on account of the wholly frivolous nature and patently political purpose of this particular allegation. The federal ethics review process is not meant to be a campaign tool for Democrats to use against Republican candidates or for Republicans to use against Democrat candidates. Such abuse of the system only leads to an unnecessary waste of resources by all the parties involved, and likewise serves as an unnecessary distraction to the Commission in carrying out its required duties.

### **III. Conclusion**

As the information contained within this Response clearly sets forth, Respondents have done nothing to run afoul of the legal requirements set forth in 11 C.F.R. § 102.17. Despite this fact, however, Complainant has seen fit to make unsubstantiated allegations and present

ineffectual "evidence" against Respondents, presumably for the purpose of political advantage in the midst of a heated congressional campaign. As a result of these actions and the meritless nature of Ms. DiNardo's claims, the Commission should summarily dismiss the Complaint against the Named Parties and find that there is no reason to believe that Respondents have violated the Act or its associated rules and regulations.

Moreover, the Commission should take additional steps to ensure that the FEC complaint process is not abused in a similar manner moving forward. As stated above, the allegations contained within the present Complaint, and verified under oath as being accurate by Ms. DiNardo, are inherently false and have no basis in either law or fact. The Complaint itself, it seems, is nothing more than a thinly-veiled political ploy on the part of a political opponent to attack Mr. Roraback and those associated with him.

In light of this fact, Respondents hereby respectfully request an Order from the Commission obligating Ms. DiNardo to reimburse the Named Parties for the attorneys fees they incurred in responding to the present Complaint.

Respectfully Submitted,



Stefan C. Passantino  
McKenna Long & Aldridge LLP  
1900 K Street, NW  
Washington, DC 20006  
Telephone: (202) 496-7138  
Fax: (202) 496-7756

*Designated Counsel for Roraback for Congress and  
Mr. Anna-Elysabeth McGuire, in her capacity as  
Treasurer of Roraback for Congress*